

## **Health Fund Advisory Committee Minutes**

**Thursday, November 13, 2014**

**2:00 pm – 4:00pm**

**Chapel, DHSS Holloway Campus**

**1901 N. Dupont Highway**

**New Castle, DE 19720**

### **Present:**

Rita Landgraf, Chair

Sen. Patricia Blevins

Sen. Hall-Long

Rep. Ed Osienski

Don Fulton

Dr. Charles Reinhardt

Bettina Riveros, Esq.

I. The meeting was called to order at 2:13 pm.

II. The Minutes from the October 16, 2014 Meeting were approved with one change, the numbers 16 and 10 were reversed. Bettina Riveros abstained.

III. Debbie Gottschalk from DHSS presented a brief history of HFAC Spending. A spreadsheet was distributed to HFAC members and projected on the screens. The spreadsheet should be considered a draft – there are entries that repeat and thus the totals at the bottom of columns did not actually reflect the totals of the entries. However, it did present a basic history of which programs were funded and at what level from FY01 – FY15. It also showed where there were years where several programs were added to those that received health fund allocations.

IV. Thomas Brown, the DAG who represents Delaware in the MSA litigation provided an update. He also provided a graph that showed the decline in number of cigarettes sold since the MSA. Cigarette consumption decreased by 40.2% between 1997 and 2012. No update on the litigation which continues over the disputed payment withholding. The states are not on the same page with each other and certainly not on the same page with the Participating Manufacturers. Delaware is locked into this annual arbitration process unless Chancery Court is asked to take jurisdiction and agrees to do so. The Delaware case is strong but cannot control the delay in getting the case presented to the decision makers. The amount of the withheld funds for Delaware is about \$3 million.

V. Mr. Brown also provided an update on the expected 2015 MSA payment which he expects to be \$25,666,918.52. This includes a reduction of \$698,000 which is the amount Delaware was over-distributed about this past April. As always, this estimate is subject to inflation rates and decreases in cigarette consumption.

In response to questions, Mr. Brown explained that the MSA does not include cigars, “roll your own”, or ecigarettes. Whether decreases in cigarette sales can be attributed to increased use of other forms of tobacco or ecigarettes is being studied. Ecigarette sales to minors were prohibited by a new law in Delaware last session. Ecigarette use can be classified into 3 categories: an initiation device, a dual use device, or an exclusive device and how people are using them is being studied.

VI. Debbie Gottschalk explained that each HFAC member received a packet of templates from applicants that asked each applicant if they could take a voluntary reduction in funding and the impact of a 20% funding reduction.

Voluntary reductions totaled \$329,000, which is nowhere near enough voluntary cuts to close gap. Thus, it would be challenging to accept voluntary cuts and then try to do the across the board cuts fairly without agencies that took voluntary cuts also receiving the full across the board cut.

VII. The discussion of FY 16 Recommendations began with the Chair presenting the 3 attached scenarios, all of which were projected on the screens:

Scenario #1 – reflects the \$26 million MSA Payment figure from the 11/16/14 HFAC meeting and a 20% reduction for the FY 15 applicants;

Scenario #2 – reflects the revised \$25.6 million MSA Payment figure and a 20% reduction for the FY 15 applicants, and with the endowment, results in a \$244,000 shortfall to cover all programs; and

Scenario #2A – reflects the revised MSA Payment figure and a 21.5% reduction for the FY 15 applicants which brings the percentage reduction needed not to have a shortfall, thus closer to using the entire reserve fund, but after using the reserve fund, leaves \$72,700 in the endowment.

Senator Blevins reminded everyone that whatever the HFAC recommends, the JFC will likely make changes, so as long as these are wishful recommendations, she suggested taking out CHIP (\$2 million) and recommending that the state find those funds elsewhere so across the board cuts for remaining programs could be 10-11%. Changes were made on the screens to reflect this suggestion and the scenario was identified as #2C. Subtotal of requests - Less 21.5% Reduction became \$18,734.0; Subtotal of FY 16 Budget Request Level became \$8,765.0; the Difference became a \$1,728.6 shortfall, and the difference after using the reserve was \$39.1. This scenario was discussed. Mr. Fulton asked several questions. The first was how likely it was that the funding for CHIP would be found outside of the Health Fund, no one present could answer but it was noted that it was JFC who put CHIP in the Health Fund. He also said that he liked the idea because it is consistent with using the MSA funds for prevention and cancer treatment programs. He asked about the voluntary cuts and their impact. The largest voluntary cut was from the Cancer Consortium and would eliminate \$238,200 (of \$329,000 in voluntary cuts) for the Helpline. Many of the voluntary cuts were from a requested increase in funding in FY16 back to FY15 funding levels. Finally, he expressed concern that the across the board cuts would cripple some programs and perhaps a funding floor of \$100,000 should be set as was done in the past.

The Chair suggested that the HFAC chose a scenario to use for discussion. A motion was made, seconded (Landgraf/Reinhardt), and approved unanimously to eliminate Scenario #1 as a strategy. A motion was made, seconded (Landgraf/Osienski), and approved unanimously to eliminate Scenario #2 as a strategy. A motion was made, seconded (Osienski/Reinhardt), and approved unanimously to eliminate Scenario #2A as a strategy. A motion was made, seconded (Blevins/Reinhardt), and approved unanimously to use Scenario #2C as the strategy upon which to base the recommendation discussions.

At this time, the Chair suggested taking Public Comment before the final recommendations were decided and while DHSS staff adapted the spreadsheets to reflect Scenario #2C.

Janet Texiera from Cancer Care Connection suggested that HFAC consider what percentage of an agency's budget the Health Fund allocation is since a reduction of a larger percentage could have a bigger impact than a flat, \$100,000 amount.

Bill Bowser, Chair of the Cancer Consortium thanked the HFAC for their support over the 13 years he has served as Chair. He noted they are down \$13 million from their peak funding level and the scenario being discussed pulls out another \$2million. He is concerned that the budget is being balanced on the back of tobacco prevention and control where there has been a lot of success. He noted that some of the programs discussed are mandates but it is not mandated that they be funded from this source of funds.

Patricia Hogan, Chair of the Tobacco and Other Risk Factors Committee of the Cancer Consortium said that Delaware spends \$79 million a year in Medicaid treating tobacco related illnesses and the tobacco industry spends \$47 million a year on advertising in Delaware. She said that spending money on prevention saves money on treatment.

The HFAC then returned to the discussion of final recommendations because a new scenario, identified as Scenario 2C1 was ready and projected on the screens. In Scenario 2C1, the CHIP funding was removed and a 12% reduction was applied. It would cost \$80,000 to keep 12 programs either above \$100,000 or at FY15 funding if the total they receive is already under \$100,000.

Dr. Reinhardt observed that there has already been 40% reduction in cigarette sales since the start of the MSA and there will continue to be less money each year because the settlement has been successful.

The Chair said that she did not want to recommend a scenario that produced a deficit. Ms. Riveros observed that adding in the \$80,000 to keep programs at \$100,000 or current funding if already below that amount created a deficit. Mr. Fulton said that could be eliminated if the cut for other programs was increased to 12.1% or if the programs at \$100,000 or below took a 6% cut. A motion was made, seconded (Fulton/Riveros) and approved unanimously to keep the across the board cut at 12%, unless the programs receive \$100,000 or less and then the cut would be 6%. This left a deficit of \$1,600.00. The revenue estimate was revised to reflect the amount of this deficit.

That became Scenario #2C2, which removes CHIP, revises the revenue estimate, makes a 12% reduction from FY15 funding, unless the programs received \$100,000 or less and then the cut would be 6%. A motion was made, seconded (Osienski/Reinhardt) and approved unanimously to adopt Scenario #2C2 as the final recommendations.

VIII. The Chair asked if there was any further public comment. Jonathan Kirch from the American Heart Association spoke and acknowledged that the HFAC is grappling with difficult challenges and it will only get harder because smoking rates are declining which is what we want to see happen. He cautioned that as states have reduced tobacco prevention and control budgets some have seen smoking rates increase. He is grateful and applauds the committee for repeating that the core of the MSA is to deal with the tobacco problem.

The Chair said that a draft of the minutes, recommendation memo, and spreadsheet will be sent to HFAC members prior to submission. She reminded everyone that these are recommendations and that this committee is advisory. She said traditionally the recommendations have been changed. She hears the passion regarding tobacco prevention and cessation. She and Bettina Riveros have been working to address this issue through work on the CMMI grant and tobacco use is a critical piece of health system transformation. Ms. Riveros said that the health system transformation work looks at implementing a plan that improves the health of the population and overall health outcomes. Prevention is part of that, especially with respect to the healthy neighborhood programs. She also noted the reserve is now fully exhausted.

Mr. Fulton reminded the HFAC that at the October 1<sup>st</sup> meeting there was agreement to move forward with the establishment of an account at the Delaware Community Foundation to address the declining revenue for the Health Fund. He said we need to look at new ways to support these causes and pursuing through a DCF innovation fund might be the way to achieve that goal. A motion was made, seconded (Fulton/Riveros) and approved unanimously to include in the recommendations using any surplus to establish an Innovation Fund as set forth in the October 1<sup>st</sup> meeting minutes.

IV. The meeting was adjourned at 3:46 pm.